IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE.

INCOME TAX REFERENCE NO. 359 OF 1998..

The Commissioner of Income-tax,
City-III, Bombay. .. Applicant,
vs.
M/s Ajit India P.Ltd. .. Respondent.

Shri A.S. Rao for the Applicant.
None for the respondent.

CORAM: V.C.DAGA &
J.P.DEVADHAR,JJ.
DATED: 22-3-2005.

P.C.

1. Heard learned Counsel for the applicant. The Tribunal has referred the question for the opinion of this Court reading as under:

> " Whether on the facts and in the circumstances of the case , the Income-tax Appellate Tribunal was right in law in holding that in the case of emplopyee-directors the disallowance out of salary and perquisites should be made as per section 40A(5) and not as per section 40(c) of the Income-tax Act, 1961? "

2. The above question has already been answered by the Division Bench of this Court in the case of C.I.T. vs. Hico Products Pvt.Ltd. (No.1) (1993) 201 I.T.R. 567 (Bom.) in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case of Hico Products (P) Ltd. Reference, accordingly stands disposed of with no order as to costs.

(J.P.DEVADHAR,J.) (V.C.DAGA,J.)